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DEC 02 2004

OFFICE OF PETITIONS

In re Application of :
Colm V. Cryan, Richard Strack and :
Karim Tatah : DECISION REFUSING STATUS
Application No. 10/768,966 : UNDER 37 CFR 1.47(a)
Filed: January 30, 2004 :
For: GRADED INDEX FIBER ARRAY AND
METHOD OF MANUFACTURE

This is in response to the "Petition Under 37 CFR 1.47(a)," filed November 15, 2004.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on January 30, 2004 without an executed oath or declaration and naming Colm V. Cryan, Richard Strack and Karim Tatah as joint inventors.

Accordingly, on June 16, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and the filing fee, and a surcharge for their late filing.

In response, on October 19, 2004, the instant petition was filed.

A grantable petition under 37 CFR 1.47(a) requires:

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been

presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks item (1), as set forth above.

Rule 47 applicant has failed to show that the inventor cannot be reached. Applicant has stated that a letter containing a Declaration for the application was mailed to the inventor, and that the packaged was returned. However, applicant has not submitted a statement of facts that describes any diligent efforts applicant has used to locate the inventor. Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, telephone directory searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions. See MPEP 409.03(d).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 Box 1450
 Alexandria, VA 22313

By FAX: (703) 872-9306
 Attn: Office of Petitions

By hand: Customer Service Window
2011 South Clark Place
Crystal Plaza Two (left side entrance of building)
Arlington, VA

Telephone inquiries related to this decision should be directed
to the undersigned at (571)272-3228.

A handwritten signature in black ink, appearing to read 'Ed T', followed by a long horizontal line.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office